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*Counsel for of the Gilbert Hospital Unsecured Creditors Trust,
Peter Kravitz, Trustee*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re

GILBERT HOSPITAL, LLC,

Debtor.

Chapter 11

Case No. 2:14-bk-01451-MCW

**STATUS REPORT OF PETER KRAVITZ,
TRUSTEE OF THE GILBERT HOSPITAL
UNSECURED CREDITORS TRUST**

Date of Hearing: November 5, 2018
Time of Hearing: 1:30 p.m.

Peter Kravitz, as Successor Trustee ("**Creditor Trustee**") of the Gilbert Hospital Unsecured Creditors Trust ("**Creditor Trust**"), by and through his undersigned counsel, hereby submits this status report in advance of the hearing on Monday, November 5, 2018.

INTRODUCTION

Peter Kravitz was appointed Creditor Trustee on August 31, 2018 in accordance with the terms of the Creditor Trust Agreement. *See Successor Trustee Acceptance Under Gilbert Hospital General Unsecured Creditor Trust* (the "Creditor Trustee Acceptance") at Exhibit A to the *Notice of Resignation of Creditor Trustee and Appointment of Successor Trustee* (the "Creditor Trustee Notice") [Dkt. No. 2031]. Mr. Kravitz accepted his appointment on September 4, 2018. *Id.*

On September 26, 2018, the Creditor Trustee continued the retention of the firm of Stinson Leonard Street, LLP, as lead counsel for the Creditor Trust after the revocation of the

1 pro hac vice qualifications of Brinkman Portillo Ronk, APC. *See Notice of Substitution of*
2 *Counsel for Gilbert Hospital Unsecured Creditors Trust, Peter Kravitz, Successor Trustee and*
3 *Notice of Appearance of Substitute Counsel* [Dkt. No. 2057].

4 Among the litigation inherited by the Creditor Trustee were two appeals to the District
5 Court (discussed below, now dismissed), five open adversaries and numerous claim objections.
6 Prosecution or resolution of the pending litigation requires use and analysis of the underlying
7 records and financial information of Gilbert Hospital. Much of this information is not available
8 to the Creditor Trustee. During these beginning days of the Creditor Trustee's appointment he
9 has taken steps to acquire and preserve such records and financial information as may be
10 available. Once these efforts are realized, the Creditor Trustee will be in a position to further
11 prosecute or resolve the remaining litigation.

12 **DISMISSAL OF APPEALS**

13 Prior to the Creditor Trustee's appointment, prior counsel for the former trustee filed two
14 appeals concerning the extent of jurisdiction of the Bankruptcy Court over the Creditors Trust:
15 Case No. 2:18-cv-02706-GMS and Case No. 2:18-cv-02594-GMS. Peter Kravitz, as Creditor
16 Trustee, reviewed the appeals and determined that they should be dismissed. By motions for
17 voluntary dismissal, each appeal was dismissed by orders dated October 16, 2018.

18 **EFFORTS TO OBTAIN BOOKS AND RECORDS**

19 The Creditors Trust has worked to obtain records from the Trust's former counsel and
20 the Trust's former trustee and has subpoenaed the records of Gilbert Hospital from the hospital's
21 former counsel. Although the above parties have been cooperative and responsive, few records
22 were secured by such parties prior to the state court receivership action and subsequent
23 foreclosure.

24 The financial books and records of Gilbert Hospital exist primarily on the servers
25 formerly utilized by the hospital. Unfortunately, those servers were foreclosed upon by
26 Somerset, a creditor of Gilbert Hospital and the servers are currently in Somerset's possession.
27 The Somerset servers are currently deactivated so it is impossible at this point to assess the
28 amount or integrity of the data. The Creditors Trust has been working with the state court

1 appointed receiver of Gilbert Hospital to first halt Somerset's plan to purge the data and further
2 to find a practical solution to preserve and access the data form those servers. The task is
3 complicated by the fact that in addition to the financial data, the servers contain protected
4 medical information which the Creditor Trustee is not authorized to access or retain. The
5 Creditor Trust has explored various resolutions with Somerset and the receiver. Counsel for the
6 Creditor Trustee has attended hearings in the receivership action to apprise the receivership
7 court concerning those efforts. The parties are currently discussing a purchase of the servers
8 whereby the receivership estate would maintain possession of the servers and extract relevant
9 data. Under this approach the initial estimated cost to the Creditors Trust would be
10 approximately \$5,000.00. The next hearing in the state court receivership action to address
11 these efforts is scheduled for November 5, 2018 at 9:00 a.m.

12 **MEETING OF OVERSIGHT BOARD**

13 At the request of the Creditor Trustee and his counsel, the Creditor Trustee attended a
14 telephonic meeting of the Creditor Trust Board on October 19, 2018. The purpose of the
15 meeting was to brief the Creditor Trust Board on recent developments in the case and request
16 specific authorization on various proposed actions. Members of the Board expressed that they
17 were unaware of some recent developments and thanked the Creditor Trustee and his counsel
18 for the briefing.

19 In an unrelated development, a member of Creditor Trust Board, Mr. Roger Simpson
20 informed the Board of his desire to resign from the Creditor Trust Board due to time constraints.
21 The remaining Board members will seek to appoint a Replacement Member pursuant to Article
22 IV(1)(b) of the Trust Agreement. The Board authorized counsel for the Creditor Trustee to
23 contact counsel for active creditors to investigate a willingness to be considered for service as a
24 Replacement Member of the Creditor Trust Board.

25 **INFORMATION FROM PRIOR COUNSEL**

26 The Creditor Trustee and counsel have requested all of prior counsel's analysis and
27 memorandums regarding the pending claims objections and adversary proceedings. Some of
28 this information has recently been provided and prior counsel continues to provide information.

1 The Creditor Trustee and counsel continue their efforts to collect and review all available
2 information concerning the claims objections and adversary proceedings. Once the Creditor
3 Trustee is satisfied he has the available information including the relevant financial data
4 discussed above, he will be in a position to analyze the claim objections and adversary
5 proceedings.

6 ANALYSIS OF POTENTIAL CLAIMS

7 The Creditor Trustee is in process of analyzing potential claims against directors and
8 officers New Visions Health, LLC and Gilbert Hospital, and potentially other parties. The
9 Creditor Trustee and his counsel are in very preliminary discussions with various counsel for
10 members of the Board of Managers for Gilbert Hospital. The Creditor Trustee continues to
11 analyze whether other potential claims may exist against additional parties. Counsel for the
12 Creditor Trustee has been contacted by counsel for a third party interested in acquiring some or
13 all of these claims.

14
15 RESPECTFULLY SUBMITTED this 2nd day of November, 2018.

16
17 **STINSON LEONARD STREET LLP**

18 By: /s/ Christopher C. Simpson

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24 Creditors Trust, Peter Kravitz, Trustee*

25 Copy of the foregoing sent this 2nd day of November, 2018,
26 to all CM/ECF registrants:

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27 /s/ Lindsay Petrowski
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